

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RAY CLARENCE ROGERS,

Plaintiff,

v.

KING COUNTY, *et al.*,

Defendants.

CASE NO. 2:23-cv-01034-DGE-GJL

ORDER ON MOTIONS

Plaintiff Ray Clarence Rogers, a prisoner proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Currently pending before the Court are three Motions filed by Plaintiff. Dkts. 51, 57, 74.

**I. DISCUSSION**

**1. Motion to Appoint Expert Witness (Dkt. 51)**

Plaintiff seeks the appointment of multiple expert witnesses, including (1) an engineer to testify about the ventilation system of King County Jail and rebut Defendants' evidence that any ventilation issues have been fixed; (2) a food service or health professional to testify about

1 allegedly unsanitary meals served by the Jail; and (3) an expert to “assess the adequacy of the  
2 Jail’s legal resource system/services for *pro se* pre-trial detainees.” Dkt. 51 at 5–6.

3 Federal Rule of Evidence 702 allows for an expert witness to testify about matters if,  
4 among other requirements, “the expert’s scientific, technical, or other specialized knowledge will  
5 help the trier of fact to understand the evidence or to determine a fact in issue.” Fed. R. Evid.  
6 702(a). Parties may call their own expert witnesses. In addition, Federal Rule of Evidence 706  
7 authorizes the Court to “order the parties to show cause why expert witnesses should not be  
8 appointed[.]” Fed. R. Evid. 706(a). The expert so appointed is entitled to such reasonable  
9 compensation as the court may allow, and, in a civil case, unless funds have been provided by  
10 law to pay the compensation, the compensation is “paid by the parties in such proportion and at  
11 such time as the court directs, and thereafter charged in like manner as other costs.” Fed. R. Evid.  
12 706(b).

13 The Court finds that, at this time, it is premature to decide whether the appointment of the  
14 requested experts are warranted because the Court has not considered Defendants’ pending  
15 Motion to Dismiss. Dkt. 48. Thus, the Court has not yet reviewed whether the issues are so  
16 complex as to require the testimony of an expert or experts to assist the trier of fact. Accordingly,  
17 Plaintiff’s Motion to Appoint an Expert Witness (Dkt. 51) is **DENIED without prejudice** to  
18 Plaintiff’s renewing such motion, or the Court *sua sponte* considering such appointment, at an  
19 appropriate later date. *Accord Wallace v. Dep’t of Corr.*, No. 3:19-cv-05330-RJB-JRC, 2019 WL  
20 3944315, at \*1 (W.D. Wash. Aug. 21, 2019).

## 21 **2. Motion for Doe Discovery (Dkt. 57)**

22 Plaintiff seeks to “obtain discovery regarding the names and identities of John Doe  
23 Defendants,” namely (1) the King County Jail official who authorized that Plaintiff be  
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1 transferred to the unit which he alleges has inadequate ventilation, (2) the maintenance engineer  
2 responsible for operating and maintaining the unit's exhaust vents, and (3) the food service  
3 manager responsible for sanitation of the facility's food trays. Dkt. 57 at 2. Defendants point to  
4 their pending Motion to Dismiss, arguing Plaintiff has failed to plead facts showing "that the  
5 alleged conditions put him at a substantial risk of suffering serious harm," dooming his claims  
6 against identified and unidentified Defendants alike. Dkt. 57 at 4 (citing Dkt. 48). Defendants  
7 also argue that they have already provided information sufficient to identify two of the three Doe  
8 Defendants, and that Plaintiff has had ample time to collect additional information via discovery  
9 and amend his pleadings. Dkt. 67 at 5 (citing Dkts. 39 and 40).

10 As Plaintiff notes in his Reply, the Court has not yet issued a scheduling order in this  
11 matter. Dkt. 73 at 6. Thus, it is reasonable for the parties to have not yet engaged in any  
12 discovery. The Court treats the Motion for Doe Discovery as a motion to compel, and, in the  
13 interests of justice and judicial economy, **GRANTS** the Motion (Dkt. 57). Defendants are  
14 required to identify each of the three Doe Defendants described in the Motion by March 6, 2024.  
15 Plaintiff may file an Amended Complaint by March 22, 2024. Defendants' Motion to Dismiss  
16 (Dkt. 48) is re-noted for March 22, 2024. Plaintiff's Motion for Extension of Time to Serve Doe  
17 Defendants (Dkt. 74) is **DENIED as moot**.

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For the reasons set forth above, it is hereby **ORDERED** that:

- Dated this 27th day of February, 2024.

Grady J. Leupold  
United States Magistrate Judge